
29 C.F.R. § 18.64

Depositions by oral examination.

(a) *When a deposition may be taken*—(1) *Without leave*. A party may, by oral questions, depose any person, including a party, without leave of the judge except as provided in paragraph (a)(2) of this section. The deponent's attendance may be compelled by subpoena under § 18.56.

(2) *With leave*. A party must obtain leave of the judge, and the judge must grant leave to the extent consistent with § 18.51(b):

(i) If the parties have not stipulated to the deposition and:

(A) The deposition would result in more than 10 depositions being taken under this section or § 18.65 by one of the parties;

(B) The deponent has already been deposed in the case; or

(C) The party seeks to take the deposition before the time specified in § 18.50(a), unless the party certifies in the notice, with supporting facts, that the deponent is expected to leave the United States and be unavailable for examination in this country after that time; or

(ii) If the deponent is confined in prison.

(b) *Notice of the deposition; other formal requirements*—(1) *Notice in general*. Except as stipulated or otherwise ordered by the judge, a party who wants to depose a person by oral questions must give reasonable written notice to every other party of no fewer than 14 days. The notice must state the time and place of the deposition and, if known, the deponent's name and address. If the name is unknown, the notice must provide a general description sufficient to identify the person or the particular class or group to which the person belongs.

(2) *Producing documents*. If a subpoena duces tecum is to be served on the deponent, the materials designated for production, as set out in the subpoena, must be listed in the notice or in an attachment. If the notice to a party deponent is accompanied by a request for production under § 18.61, the notice must comply with the requirements of § 18.61(b).

(3) *Method of recording*—(i) *Method stated in the notice*. The party who notices the deposition must state in the notice the method for recording the testimony. Unless the judge orders otherwise, testimony may be recorded by audio, audiovisual, or stenographic means. The noticing party bears the recording costs. Any party may arrange to transcribe a deposition.

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